Responding To Child Sexual Abuse: Legal, Medical, and Ethical Perspectives

January 24, 2012

Prof. Lucy Johnston-Walsh
Dr. Andrea Taroli
Prof. Jonathan Marks
Categories of Child Abuse – PA Law

- Non-accidental Serious Physical Injury
- Non-accidental Serious Mental Injury
- Sexual Abuse or Exploitation
- Imminent risk of serious physical injury or sexual abuse
- Serious Physical Neglect
Serious Physical Injury

- Occurred within last 2 years
- Must cause child severe pain, OR
- Must significantly impair functioning, either temporarily or permanently
Sexual Abuse and Exploitation

The involvement of any child in:

• rape, sexual assault, molestation, incest, indecent exposure, prostitution, and other sexual acts; or

• any sexually explicit conduct; or

• any *simulation* of sexually explicit conduct for the purpose of producing any visual depiction (photos, videotape, etc.)
Types of Reporters

Permissive:
- anyone can report abuse if reasonable cause to suspect abuse

vs.

Mandated:
- legally obligated to report if reasonable cause to suspect abuse
Child Abuse Reporting

Mandated Reporter:

- Person who, in the course of employment, comes into contact with children,
- shall report or cause a report to be made
- when the person has reasonable cause to suspect,
- that a child under the care of that person or of an agency,
- is a victim of child abuse, including child abuse by an individual who is not a perpetrator.
Enumerated Reporters

Includes:

• **Health care professionals**: physician, dentist, nurse, hospital personnel
• **Clergy**
• **Education**: school administrator, school teacher, school nurse,
• **Social services** worker, day-care center worker or any other child-care or foster-care worker,
• **Mental health** professional, law enforcement official,
• Etc...
Limited Exceptions to Reporting

- confidential communications made to a member of the clergy
- confidential communications made to an attorney.
- ...this exception, of privileged communication to a specific professional, does not constitute grounds for failure to report.
Staff members of institutions

• Whenever a person is required to report as a staff member of a medical or other institution, that person shall immediately notify the person in charge of the institution.

• Upon notification, the person in charge assumes the responsibility and has the legal obligation to report or cause a report to be made.

• Does not require more than one report from any such institution, school, facility or agency.
## Reporting Procedures

- Immediately by phone
- within 48 hours, in writing

---

**Then:**

- Agency must immediately see to safety of children
- Then agency begins investigation within 24 hrs.
How to Report:

Call ChildLine
(800) 932-0313
Failing to Report Abuse

• **CHILD CONTINUES TO BE AT RISK**

• **Criminal charges can be filed:**
  - 1\textsuperscript{st} offense – 3\textsuperscript{rd} degree misdemeanor ($2500 &/or 1 yr in jail)
  - 2\textsuperscript{nd} offense – 2\textsuperscript{nd} degree misdemeanor ($5,000 &/or 2 yrs in jail)

• **Potential Professional Disciplinary Action**
Liability

• Immunity from civil or criminal liability as long as:
  – Make a report in good faith
  – Cooperate with the investigation
  – Testify in a proceeding, if necessary

All Reports are Confidential – agencies are not permitted to reveal identity of reporter
In 2010, PA had the lowest rate of investigation in the country.

- PA’s rate of investigating child abuse was 8 investigations per 1,000 children
  - Investigation rate = the times a call to ChildLine triggered an investigation of the report
- The national rate was 40 investigations per 1,000 children
- Next lowest states rates of investigation:
  - Hawaii 16.5
  - Minnesota 18.1
  - New Jersey’s 37
  - Ohio 33.8
  - Virginia 35.1

PA Rate of Child Abuse

• PA’s rate of victimization (substantiated child abuse cases) fell in 2010 to 1.3 per 1,000 children
• The national rate was 9.2 per 1,000 children
• Over 3,000 substantiated abuse cases in PA in 2010

Source: U.S. Department of Health and Human Services, Administration for Children and Families,
How to Report:

Call ChildLine
(800) 932-0313